

US Serial No. 10/597448  
Page 1 of 3

JUL 02 2009

Attorney File Ref: 102792-609 / 11382P1 US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Sabrina HIGGINS, et al.  
Serial No.: 10/597448  
Filed: 26.July.2006  
Examiner: Nora Maureen ROONEY  
Art Group: 1644  
Title: **PROLONGED DEACTIVATION**

---

**PER TELEFAX (571) 273-8300**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313 - 1450

02.July.2009

Dear Sir;

**RESPONSE TO RESTRICTION REQUIREMENT/ELECTION OF SPECIES**

This paper is responsive to the *Restriction Requirement/Election of Species* requirement dated 18.Jun.2009.

The applicant note that the Examiner asserts that an election of species amongst the species of deactivants recited in claims 7 and 16, as allegedly failing to relate to a single general inventive concept under PCT Rule 13.1, as it is supposed by the Examiner that the species lack the same or corresponding technical features as required under PCT Rule 13.2. The applicant disagrees and TRAVERSES the Examiner's presumptions and the

US Serial No. 10/597448  
Page 2 of 3

requirement, and believes that the restriction requirement/election of species requirement is improper.

First, it is pointed out that MPEP 1850 (II) provides that: "Unity of invention has to be considered in the first place only in relation to the independent claims in an international application and not the dependent claims. \* \* \* If the independent claims avoid the prior art and satisfy the requirement of unity of invention, no problem of lack of unity of invention arises in respect of any claims that depend on the independent claims." Accordingly, the Examiner's focus on dependent claims 7 and 16 under the PCT standard is presumptively improper; the proper focus is on the independent claims present in the application.

Second, it is believed that there would be no undue burden on the part of the Examiner to perform a concurrent search and examination of the oils presented in claims 7 and 16, both dependent claim, in considering the patentability of the independent claims.

Consequently, the applicant asserts that the species satisfy the criteria for unity of invention under the PCT and thus, the Examiner's present restriction requirement/election of species requirement is improper and should be withdrawn.

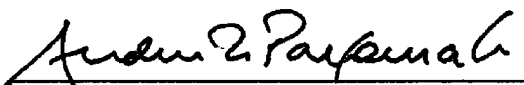
Notwithstanding the above, to ensure completeness of this response, the applicant *provisionally* elects citrus oil.

US Serial No. 10/597448  
Page 3 of 3

### CONDITIONAL AUTHORIZATION FOR FEES

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

Respectfully Submitted;



Andrew N. Parfomak, Esq.

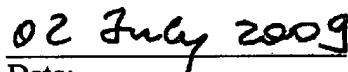
Reg.No. 32,431

Norris, McLaughlin & Marcus

875 Third Avenue, 18<sup>th</sup> Floor

New York, NY 10022

Tel: 212 808-0700



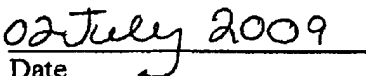
Date:

### CERTIFICATE OF TELEFAX TRANSMISSION UNDER 37 CFR 1.8

I certify that this document, and any attachments thereto, addressed to the:  
"Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" is being  
telefax transmitted to (571) 273-8300 at the United States Patent and Trademark Office.



Allyson Robs



Date

C:\ANPCMB\102792\809\ResponseRestrictionReqd.doc